

**Ex. D**

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February 3, 2016

**VIA FEDERAL EXPRESS AND F&S**

Tracey O'Reilly, Esq.  
Miller, Axline & Sawyer  
1050 Fulton Avenue, Suite 100  
Sacramento, CA 95825-4288

Re: In re MTBE Products Liability Litigation, MDL 1358  
Orange County Water District v. Unocal Corp., et al.

Dear Ms. O'Reilly:

This letter responds to your letter of January 22, 2016, regarding Defendants' public information requests to water purveyors in Orange County. Defendants have not sought any documents that are privileged or from which we are otherwise barred by the discovery orders in this case, as you suggest. The requests were issued under the California Public Records Act and have only sought information that is available to any public citizen making similar public information requests.

The California Public Records Act includes an exemption for records prepared in connection with filed litigation and attorney-client privileged materials. Cal. Gov. Code § 6254 (b)(k). No such records have been sought in our requests to the Orange County water purveyors. What our public information requests (several of which you already appear to have) do seek are public documents including communications between the water purveyors and the Orange County Water District regarding MTBE or TBA, sampling of wells for MTBE, information regarding stations at which releases of MTBE have been alleged, and public complaints or corrective actions relating to these wells and stations.

Your letter of January 22 asserts that Defendants are barred from pursuing California Public Records Act requests, without citing to a single, specific provision of law or case management order. In fact, there are no such limitations on litigants seeking such information. *See Wilder v. Sup. Ct.*, 66 Cal.App.4th 77, 82 (Cal. Ct. App. 1998) ("The statute [California Public Records Act], which we are bound to interpret in accordance with its plain language unless doing so would lead to absurd results, requires that public records be made available to every person in this state, without exception."). Defendants' right to public information is not

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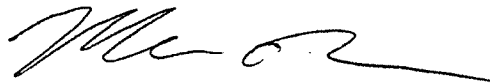
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limited simply because we are in litigation and the Focus Sites discovery in this case is complete. Defendants obviously will not cease and desist from doing what we are permitted to do by law, but, to the extent the District does not already have the information we obtain through public information requests, we will share this information with you at your request.

Defendants also plan to serve public records requests on other municipal and state agencies in California. As with the requests to the Orange County water purveyors, we will share any information received from these agencies with the District at your request.

Please let me know if you would like copies of the documents that Defendants have obtained or will obtain pursuant to their public information requests. If you have any further questions or concerns, please do not hesitate to pick up the telephone.

Very truly yours,

A handwritten signature in black ink, appearing to read 'M. Thurlow', with a long horizontal flourish extending to the right.

Matthew D. Thurlow  
of LATHAM & WATKINS LLP

cc: All Counsel (via F&S)